

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WILLIAM H. DEASE,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-14-673-F
)	
LT. BARNEY, Lieutenant)	
Deputy Sheriff; and S. MAY,)	
Deputy Sheriff,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Plaintiff filed a civil rights suit, Doc. 1, and United States District Court Judge Stephen P. Friot referred the matter to the undersigned Magistrate Judge for initial proceedings pursuant to 28 U.S.C. § 636(b)(1)(B), (C). Based on Plaintiff's failure to either pay the \$400.00 filing fee or cure his deficient application to proceed in forma pauperis, the undersigned recommends that the court dismiss the action without prejudice.

I. Analysis.

Plaintiff sent his complaint to the court with an application for leave to proceed in forma pauperis. Doc. 2. The undersigned instructed Plaintiff that his application was missing pertinent financial information and ordered him to cure the errors. Doc. 5. Plaintiff responded with a letter complaining about jail officials hindering the process. Doc. 6. The undersigned informed

Plaintiff that a letter is not a recognized court pleading, but nevertheless extended Plaintiff's deadline to August 6, 2014. Doc. 7. That deadline has now past, and Plaintiff has neither paid the \$400.00 filing fee nor cured the errors in his application for leave to proceed in forma pauperis. So, the undersigned recommends that the court dismiss Plaintiff's action without prejudice to refiling. *See* LCvR3.3(e) ("Failure to pay the filing fees by the date specified, to seek a timely extension within which to make the payment, or show cause in writing by the date specified for payment shall be cause for dismissal of the action without prejudice to refiling."); *see also* LCvR3.4(a); *Freeman v. Colo. Dep't of Corrs.*, 396 F. App'x 543, 543-44 (10th Cir. 2010) (affirming the district court's dismissal of inmate's complaint after plaintiff failed to "pay the initial partial filing fee" or "show cause why she could not pay the fee").

II. Recommendation and notice of right to object.

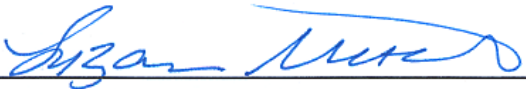
For the reasons set forth above, the undersigned recommends that the court dismiss the complaint without prejudice.

The Court advises plaintiff of his right to object to this report and recommendation by the 4th day of September, 2014, in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2). The Court further advises plaintiff that failure to make timely objection to this report and

recommendation waives their right to appellate review of both factual and legal issues contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

Adoption of this report and recommendation will terminate the referral in the present case.

ENTERED this 15th day of August, 2014.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE